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Dated: October 3, 1997.

Alex Rodriguez,

Deputy Assistant Secretary (Administration)

[FR Doc. 97-29794 Filed 11-12-97; 8:45 am]

Billing Code: 4830-01-F

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 17

RIN 2900-A184

Grants to States for Construction or Acquisition of State Home Facilities

AGENCY: Department of Veterans Affairs.

ACTION: Final rule.

SUMMARY: This document amends the "Medical" regulations regarding applications for grants to States for the construction or acquisition of State home facilities. VA awards grants based on a priority ranking system. Usually, the higher priority applications deplete the available funding to the extent that the lowest ranking application to be offered funding is offered only a partial grant. This final rule provides that if the lowest ranking grant application receives only a partial grant in a fiscal year and if such grant award is partial solely because VA has insufficient funds for a full grant, the application would be placed at the top of the list within its priority group for the next fiscal year. Often applicants are hesitant to accept a partial grant because of the uncertainty of receiving an additional grant the next fiscal year. This final rule will encourage States to accept a partial grant by creating the likelihood that the State would receive an additional grant in the subsequent fiscal year. Accordingly, this will help ensure that VA would be able to award grants to higher priority applicants that might otherwise reject partial funding.

Also, this final rule provides that the applicant receiving partial funding and receiving priority as proposed will not be required to submit a second application for additional funds in the subsequent fiscal year, but could be required to update information already submitted. The first application would

normally be adequate because the grant award in the second fiscal year would be for the same project which received the partial grant award.

Further, the final rule provides that the total amount awarded for the application may not exceed 65 percent of the total cost of the project as determined at the time of the second grant award for that grant application. This is consistent with the statutory requirement that limits grant awards to no more than 65 percent of the estimated cost construction or acquisition.

DATES: *Effective Date:* December 15, 1997.

FOR FURTHER INFORMATION CONTACT: Ms. Kathleen Greve, Geriatrics and Extended Care Strategic Healthcare Group, (202) 273-8534.

SUPPLEMENTARY INFORMATION: In a document published in the **Federal Register** on July 29, 1997 (62 FR 40492), VA proposed to amend the "Medical" regulations in 38 CFR part 17 as set forth in the SUMMARY portion of this document. The document provided a 60-day comment period, which ended on September 29, 1997. Three commentators submitted comments, all of whom expressed full approval for the provisions of the proposed rule.

Based on the rationale set forth in the proposed rule and this document, the provisions of the proposed rule are adopted as a final rule without change.

The Secretary hereby certifies that the adoption of this final rule will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601-612. The rule will affect grants to States and will not directly affect small entities. Therefore, pursuant to 5 U.S.C. 605(b), this rule is exempt from the initial and final regulatory flexibility analyses requirements of secs. 603 and 604.

The Catalog of Federal Domestic Assistance program number for this document is 64.005.

List of Subjects in 38 CFR Part 17

Administrative practice and procedure. Alcohol abuse, Alcoholism, Claims, Drug abuse, Foreign relations, Government contracts, Grant programs-health, Grant programs-veterans, Health care, Health facilities, Health professions, Health records, Homeless, Medical and dental schools, Medical devices, Medical research, Mental health programs, Nursing homes,

Philippines, Reporting and recordkeeping requirements, Scholarships and fellowships, Travel and transportation expenses, Veterans.

Approved: November 3, 1997.

Hershel W. Gober,

Acting Secretary of Veterans Affairs.

For the reasons set forth above, 38 CFR part 17 is amended as set forth below:

PART 17—MEDICAL

1. The authority citation for part 17 continues to read as follow:

Authority: 38 U.S.C. 501, 1721, unless otherwise noted.

2. In § 17.212, paragraph (d) is added and the authority citation for the section is revised to read as follows:

§ 17.212 Scope of grants program.

* * * * *

(d)(1) Notwithstanding paragraph (c) of this section and the provisions for ranking projects within a priority group in § 17.213(c)(3)(i), the Secretary shall give an application first priority within the priority group to which it is assigned on the list of projects established under § 17.213(d) for the next fiscal year if:

(i) the State has accepted a grant for that application as of August 15 of the current fiscal year that is less than the amount that the Secretary would have awarded if VA had sufficient grant funds to award the grant in such amount in that fiscal year; and

(ii) the application is the lowest ranking application on the priority list for the current fiscal year for which grant funds are available as of August 15 of that year.

(2) The Secretary shall not require a State to submit a second grant application for a project which receives priority under paragraph (d)(1) of this section but may require the State to update information already submitted in the application for the project. The Secretary shall determine the amount of a second grant at the time of the award of that grant. In no case shall the total amount awarded for the application exceed 65 percent of the total cost of the project as determined at the time of the second grant award for that grant application.

(Authority: 38 U.S.C. 8135(b))

[FR Doc. 97-29788 Filed 11-12-97; 8:45 am]

BILLING CODE 8320-01-M